

FOR UPLOAD

PER CURIAM.

Appellant M.R. ["M.R." or "appellant"], a juvenile, submits for expedited review this timely appeal of the order of the Family Division of the Territorial Court ["Family Division"] transferring him to the Criminal Division for further proceedings. Appellant argues that the Family Division erred by not using a higher standard of probable cause. In particular, appellant contends that the Family Division must "distinguish probable cause for loss of security of [his] person as required by the Fourth Amendment, with that probable cause necessary to deprive [him] of the life and liberty interests he possessed by his juvenile status, in conformity with due process of law, as required by the Fifth Amendment." For the reasons set forth below, the Court will affirm the Family Division's order.

The Appellate Division has jurisdiction to review the judgments and orders of the Territorial Court in all juvenile cases. See 4 V.I.C. § 33. The Court has judicially narrowed application of this jurisdiction to include only final judgments and orders. *Government of the Virgin Islands ex rel. N.G.*, 119 F. Supp. 2d 525, 527 (D.V.I. App. Div. 2000). A juvenile transfer order is considered a final appealable order. See *id.* The Court will uphold findings of fact unless clearly erroneous. See 4 V.I.C. § 33. Although the decision to transfer a juvenile to the Criminal Division is "committed to the sound discretion of

the trial court" and generally can be reviewed only for abuse of that discretion, the Appellate Division exercises plenary review over any constitutional claims or other questions of law. See *Government of the Virgin Islands ex rel. N.G.*, 119 F. Supp. 2d at 527 (citing *Government of the Virgin Islands in the Interest of M.B.*, 122 F.3d 164, 167 (3d Cir. 1997)).

As this Court has previously observed,

the mandatory transfer statute does not define "probable cause." It merely states that "after a determination of probable cause," the Family Division shall transfer the juvenile if the other requirements are satisfied. Given that the Legislature did not specifically define the term "probable cause" within the confines of section 2508(b), we assume that it intended the term to have the same meaning as it does in adult criminal proceedings.

Government of the Virgin Islands ex rel. N.G., 119 F. Supp. 2d at 527-28 (internal citations omitted and emphasis added). The Third Circuit Court of Appeals also supports such a proposition, in that it is "[un]aware of any decision of the Supreme Court or of this court holding that the Constitution imposes stricter evidentiary standards in juvenile than in adult proceedings."

Government of the Virgin Islands ex rel. A.M., 34 F.3d 153, 161 (3d Cir. 1994). Therefore, as both this Court and the Third Circuit Court of Appeals have found no basis to impose stricter evidentiary standards in juvenile proceedings, we hold that the Family Division committed no error in applying the same probable

cause standard. Moreover, we find that the record was sufficient for the trial court to find probable cause in order to transfer the appellant to the Criminal Division. Accordingly, it is hereby

ORDERED that the judgment of the Territorial Court is **AFFIRMED**.

ENTERED this 6th day of August, 2002.

ATTEST:

WILFREDO F. MORALES
Clerk of the Court

By: _____/s/_____
Deputy Clerk